

## Department of Defence

### JSCFADT Review of the Defence Annual Report 2012-13 - 6 June 2014

#### Question on Notice No. 1 – Peppercorn Lease Arrangements

**Dr Jensen MP** asked on 6 June 2014, Hansard page 24:

How much Defence land has been gifted or assigned/transferred on peppercorn lease arrangements, and to which organisations, since 1 January 2007?

**Response:**

Since 1 January 2007, Defence has gifted 120 000 square metres of the former Jezzine Barracks in Townsville, Queensland, to the Townsville City Council for community use and heritage protection.

Defence has identified 82 774 845 square metres of land (where figures are readily available) that is currently leased under peppercorn arrangements (defined as \$1 per annum if and when demanded). The table below lists the organisations that the land is leased to.

Tenant
Thales Australia
Airservices Australia
Territory & Municipal Services
Australian Federal Police
Mr Graham Heanes
Canberra Airport
Aust Rail Track Corp Ltd
Australian Customs & Border Protection
Charters Towers Reg Council
Townsville City Council
Queensland Police Service
BAE Systems Australia
Bureau of Meteorology
NT Police Fire & Emergency Services
Northrop Grumman Service Corp

Dept Lands & Planning
Department of Climate Change
Coolibah Crocodile Farm P/L
Corowa Shire Council
Shoalhaven City Council
The City of Whyalla
Port Augusta City Council
Envestra (SA) Ltd
ETSA Utilities
ORIGIN Energy Retail Limited
Ausco Modular
Renewal SA
ELGAS Ltd
Howdeen Pastoral Company
Woomera R.D. Catholic Parish
Woomera Golf Club
SA Country Fire Service
SA Ambulance Service
Dept Transport Energy & Infrastructure
Queensland Rail
Broadcast Australia
Dept of Transport & Main Roads
Dept of Immigration & Border Protection
BAE Systems Australia Limited
Mr Stracey Elliott & Elliott
CSIRO
Melbourne Water
BirdLife Australia Ltd

Australian Red Cross Blood Service
Dept of Environment & Primary Industries
Attorney-General's Department
Victoria Police
Puckapunyal Adult Riding Club
Molec Electrical Contractors
Energy Australia
Defence Housing Authority (Parramatta)
NSW Maritime
DMS Maritime Pty Ltd
Sydney Water Corporation
HL & J Kennett
Surf Life Saving NSW Inc.
Mr John Dunbabin
A L Fehlberg Pty Ltd
J E Thompson and Partners
Mr LA Wilson
Sam Tropiano
Mr Derek Henderson
Water Corporation
Dept Immigration & Citizenship
Council of East Fremantle
K & M Spurge
Colin W Fleay
Dept Enviro & Consv ( Exmouth)
Shire Of Swan

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### **JSCFADT Review of the Defence Annual Report 2012-13 - 6 June 2014**

#### **Question on Notice No. 2 - ASEAN**

**Mr Nikolić MP** asked on 6 June 2014, Hansard page 25:

I know that with the formation of the ASEAN Defence Ministers' Meeting-Plus framework Australia is the non-ASEAN co-chair of the expert working group on maritime security. There was an effort a while ago where we would pre-position stores, not just in Australia but in other regional countries, for similar purposes where we would cooperate with other regional nations to deliver things at short notice in times of international disaster. If there is any of that happening, I would be interested to get an update on that at some later stage perhaps as well.

#### **Response:**

Australia's term as co-chair of the ASEAN Defence Ministers' Meeting-Plus (ADMM-Plus) Experts' Working Group on Maritime Security ended on 30 April 2014. Australia's defence engagement within the ADMM-Plus framework does not include the pre-positioning of stores in regional countries for humanitarian assistance and disaster relief purposes.

Australia's pre-positioning of relief items is managed by the Department of Foreign Affairs and Trade.

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### **JSCFADT Review of the Defence Annual Report 2012-13 - 6 June 2014**

#### **Question on Notice No. 3 - Valuation of land for the School of Military Engineering**

**Mr Kelly MP** asked on 6 June 2014, Hansard page 26:

- (1) Does the land where the school of military engineering is currently located have a valuation on the books of the Department of Defence anywhere?
- (2) If so, what is the value?
- (3) I think there are about 270 hectares at that school of engineering. Would that have separate land and buildings values or is it all one value?

#### **Response:**

(1) to (3) The School of Military Engineering is currently located at Steele Barracks, Moorebank. The land asset recorded by Defence for this site, recorded at 333.5 hectares, is currently valued at \$261.7 million. Valuations for land assets are recorded separately to the valuations for buildings on the site.

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### **JSCFADT Review of the Defence Annual Report 2012-13 - 6 June 2014**

#### **Question on Notice No. 4 - Number of Heritage buildings for Defence**

**Senator Fawcett** asked on 6 June 2014, Hansard page 28:

How many heritage buildings does Defence have on its asset book or its property register? Is there a quantifiable cost ... due to the fact that these buildings are heritage listed?

#### **Response:**

Defence currently has in excess of 2000 heritage property structures (mostly buildings) spread across the Defence estate. These structures occur on both Commonwealth Heritage Listed (CHL) properties and on other Defence properties known also to contain heritage buildings which have not been formally assessed under the CHL (including former Register of the National Estate sites).

Costs for maintaining heritage properties as part of the Defence estate are funded through the overall estate management budget allocation. There is no separately identifiable amount relating to the properties that are heritage listed.

Developments to the Defence estate which impact on heritage values also carry additional costs related to heritage approvals and management requirements.

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### **JSCFADT Review of the Defence Annual Report 2012-13 - 6 June 2014**

#### **Question on Notice No. 5 - Pacific Patrol Boat Program**

**Senator Fawcett** asked on 6 June 2014, Hansard page 32:

You mentioned \$2½ million as an indicative figure [the approximate cost to refit and extend the life per boat in the PPB program from 2018 to 2027]. My understanding is that the Vanuatu refit cost in the order of \$8 million. How many others were at that end of the scale as opposed to the indicative figure?

#### **Response:**

Defence contractor, DMS Maritime, has conducted Half Life Refits on four Pacific Patrol Boats to date. The cost has ranged from \$3,599,000 to \$7,555,000.

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### JSCFADT Review of the Defence Annual Report 2012-13 - 6 June 2014

#### Question on Notice No. 6 - Pacific Patrol Boats - Sea days achieved by each nation

**Senator Fawcett** asked on 6 June 2014, Hansard page 32:

In terms of availability of the boats to do their tasking, can you give us the sea days achieved by each of the nations?

#### Response:

The table below outlines the number of sea days conducted by each Pacific Patrol Boat (PPB) in 2013. Australian support to Fiji's three PPBs was suspended in 2008, in response to the 2006 coup. Consequently, Defence is unable to report on the number of sea days achieved by Fiji's PPBs.

Pacific Patrol Boat Sea Days 2013		
PPB name	Country	2013
CIPPB TE KUKUPA	Cook Islands	62
MV NAFANUA	Samoa	61
HMTSS TE MATAILI	Tuvalu	75
RKS TEANOAI	Kiribati	52
RVS TUKURO	Vanuatu	48
RMIS LOMOR	RMI	88
PSS PRESIDENT REMELIK	Palau	68
FSS PALIKIR	Federated States of Micronesia	66
FSS MICRONESIA	Federated States of Micronesia	139
FSS INDEPENDENCE	Federated States of Micronesia	90
VOEA NEIAFU	Tonga	13
VOEA PANGAI	Tonga	61
VOEA SAVEA	Tonga	62
RSIPV LATA	Solomon Islands	133
RSIPV AUKI	Solomon Islands	9
HMPNGS RABAU	Papua New Guinea	27
HMPNGS DREGER	Papua New Guinea	31
HMPNGS SEEADLER	Papua New Guinea	22
HMPNGS MORESBY	Papua New Guinea	3
RFNS KULA	Fiji	<i>Cessation of support under PPB Program following suspension of defence engagement.</i>
RFNS KIKAU	Fiji	
RFNS KIRO	Fiji	



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### **JSCFADT Review of the Defence Annual Report 2012-13 - 6 June 2014**

#### **Question on Notice No. 7 - Pacific Patrol Boats - EEZ Enforcement**

**Senator Fawcett** asked on 6 June 2014, Hansard page 33:

Do you have statistics for each of the nations as to the number of voyages or missions that are specifically in that EEZ enforcement, as opposed to local administration—dropping off VIPs? Do you have statistics around the number of successful intercepts, boardings and prosecutions where ships have been found to be fishing illegally within that EEZ?

**Response:**

No.

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**JSCFADT Review of the Defence Annual Report 2012-13 - 6 June 2014**

**Question on Notice No. 8 - Pacific Maritime Security package**

**Senator Fawcett** asked on 6 June 2014, Hansard page 36:

Is it possible to give us an indication of the timeframe as to when you feel you will have a proposal that you can present to government of what this broader Pacific maritime security package may look like?

**Response:**

The Department of Defence is developing advice on the Pacific Maritime Security Program for consideration by Government in 2014.

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### **JSCFADT Review of the Defence Annual Report 2012-13 - 6 June 2014**

#### **Question on Notice No. 9 - Accountability mechanisms within DMO**

**Dr Jensen MP** asked on 6 June 2014, Hansard page 49:

There was a risk that was identified back in about 2006 in terms of the movement away from MIL-SPEC and MIL standards—moving over to COTS and commercial standards. Some defence materiel suppliers would be in the situation of seeking advantage for themselves for other than cost or capability advantage. One such activity is in the design of digital and other electronic systems where they use commercial components with a limited production life, some in the order of two years or less. The result of these activities leads to the need to redesign the system or to replace the now out-of-production components employed in the original design.

An example of this is that recently Lockheed Martin was awarded \$90 million for the modification of a previously awarded, firm-fixed-price incentive-fee contract to incorporate the updated system architecture into the original diminishing manufacturing sources redesign activity for the electronic warfare system in support of the F-35 lot 7. And for the questions that I have, I am just giving that as an example. Estimates put the increase in costs for such systems where such practices have been employed at anywhere between 25 and 50 per cent. What engineering practices, quality assurance systems and risk management strategies, as well as contractual mechanisms, does the DMO have to identify, assess and mitigate or counter such practices?

#### **Response:**

To provide more cost-effective whole-of-life outcomes, including in the context of greater use of commercial-off-the-shelf (COTS) systems and components, DMO has recently undertaken significant work to improve policy, guidance and training in regard to its Acquisition and Support Implementation Strategy. This improved policy and guidance specifically requires projects to understand the nature of the technology in the marketplace relevant to the capability being acquired – in particular, to understand the key technologies and associated obsolescence risks.

The new policy places a greater emphasis on the early identification of sustainment issues and risks, including component obsolescence and requires a project to address these aspects in its procurement strategy and selection process. This is supported by strengthened use of an ‘offer definition and improvement activity’ phase during the tender evaluation to understand fully the commercial and technical risks being offered by suppliers and identified activities by suppliers to mitigate or counter any associated risks. Consideration is given to balancing the value-for-money aspects of any COTS systems or components during acquisition against the component of ‘total cost of ownership’ required to address any potential obsolescence issues.

During acquisition, from a contractual perspective DMO covers obsolescence in the ‘growth, evolution and obsolescence program’ as part of the contracted statement of work which is considered as part of the tender evaluation. Once the contract has been awarded, obsolescence is a continuing consideration from commercial, systems engineering (including system-design reviews) and project management perspectives.

During sustainment, DMO contract templates and contract guidance highlight the need to monitor and manage emerging component obsolescence over the equipment life cycle. This is supported by Defence-wide policy on obsolescence management.

DMO's support contracting templates impose the requirement for contractors to implement an obsolescence monitoring program to identify and monitor obsolescence issues and provide for engineering review mechanisms to identify and implement replacement components for obsolete items.

A supply-support plan requires contractors to identify the proposed approach and resources to address component obsolescence in sustainment and this plan is approved by the DMO.

The contracted obsolescence monitoring program is conducted within a broader Defence obsolescence monitoring program to address the issues relating to the increasing difference between the life cycle of COTS equipment and software and the lifecycle of the system, and to ensure that supportability and life-cycle costs benefits are obtained from technology insertion opportunities.

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### **JSCFADT Review of the Defence Annual Report 2012-13 - 6 June 2014**

#### **Question on Notice No. 10 - ANAO Report into Capability Development Reform - Number of Recommendations closed**

**Senator Fawcett** asked on 6 June 2014, Hansard page 50:

**Vice Adm. Jones:** I will just correct the record in terms of the number of ANAO recommendations that have been closed [ANAO report into the Capability Development Reform]. There were seven recommendations. Three have been closed; one remains open; and three remain open with their closure cases submitted.

**CHAIR:** If you could perhaps provide that on notice, just tell us which ones they are, that would be great.

#### **Response:**

The following response clarifies the status of recommendations from ANAO Performance Audit Report No.6 2013-14 Capability Development Reform.

Recommendations 5, 6 & 7 have been closed; recommendations 1 & 4 remain open and recommendations 2 & 3 have submitted closure cases.

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### **JSCFADT Review of Defence Annual Report 2012-13 Hearing – 6 June 2014**

#### **Question on Notice No. 11 - JSF**

**Senator Fawcett** asked on 6 June 2014, Hansard page 54:

**Mr King** regarding the independent review of the JSF program:

What I would be prepared to do, obviously, is to go away and make sure we clear it with the US. As I said, there is nothing in that report that is alarming at all. That report was commissioned by me, for me, to provide my independent assurance to the minister. This is the first time I have been asked for it. It is not something I have sat on or have hidden from the public. It simply was part of my due diligence about where we were. So I am more than happy to take it on your request and see what I can do to release it, but it was done against the basis that we were given access to information in order for me to formulate my assessment for the government.

#### **Response:**

While the final report is classified and cannot be released, Defence is in the process of seeking agreement from the US Joint Project Office to the release of the findings of the review.

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### **JSCFADT Review of the Defence Annual Report 2012-13 – 6 June 2014**

#### **Question on Notice No. 12 - Asset Management and Capital Investment Programs - Contracts evaluated for success or failure**

**Ms Gambaro MP** provided in writing:

In relation to Asset Management and Capital Investment Programs, how are contracts evaluated for success or failure – i.e. key performance indicators, penalties for not meeting deadlines etc?

#### **Response:**

The performance of the Comprehensive Maintenance Service and Base Service contractors who deliver regional estate maintenance services is assessed using a performance management framework that includes strategic, compliance and performance indicators. Failure to meet indicators or a low score will result in reduction in performance based payments to contractors. The reduction in performance based payments can vary depending on contract by up to twelve percent of the scheduled monthly service fee.

For major capital facilities investments, contractors are required to tender plans that will implement appropriate management strategies for the contractor's activities and the works, including:

- (a) methodology
- (b) quality assurance
- (c) work health and safety
- (d) site management
- (e) environmental management
- (f) time and cost control
- (g) commissioning and handover
- (h) whole-of-life cost of facilities from development to disposal
- (i) employment and training opportunities for indigenous Australians (in regions where a significant indigenous population exists)
- (j) increasing the participation of women in all aspects of the building and construction industry, and,
- (k) adding and retaining trainees and apprentices.

These aspects are evaluated as part of the tender process and achievement of them is monitored on a regular basis by Defence through the term of the project. In the case of Head Contracts, if the deadline is not met, the contractor is normally subject to the application of liquidated damages, i.e. a genuine pre-estimate of the losses Defence would suffer as a result of the contractor's default.

In the case of Managing Contractor contracts, a similar process is undertaken. However, liquidated damages do not apply and key performance indicators (KPIs) tailored for each project are used in conjunction with financial incentives. If the KPIs are met, the contractor is eligible for payment from the incentive pool.

Any breach of contract by either type of contractor can result in the payment of damages to Defence.

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### **JSCFADT Review of the Defence Annual Report 2012-13 – 6 June 2014**

#### **Question on Notice No. 13 - Asset Management and Capital Investment Programs - Small to Medium Enterprises**

**Ms Gambaro MP** provided in writing:

In relation to Asset Management and Capital Investment Programs, how can Small to Medium Enterprises (SME) be provided with greater competitive opportunities to participate in Defence contracts that appear to be currently dominated by Head/Prime Contractor arrangements?

#### **Response:**

All Comprehensive Maintenance Service (CMS) and Base Service (BS) contracts, which deliver regional estate maintenance services have a mandated requirement in the contract terms and conditions to engage a minimum of 10% Small to Medium Enterprises (SMEs) in sub-contracting. CMS contractors are required to provide quarterly reports on SME engagement. A review of quarterly reports indicates that all contractors are achieving the minimum SME engagement rate of 10% with some achieving a rate of up to 83%.

Defence major capital construction contracts are normally beyond the capacity of SMEs in the construction industry. To assist SMEs in gaining Defence capital facilities work, Defence utilises a Managing Contractor methodology whereby delivery of components of the project are undertaken by the mandatory engagement of subcontractors. Tendering for this sub-contract work, which is primarily undertaken by SMEs, is done on an open-book basis with total visibility by Defence. The Managing Contractor's tendering process is required to mirror the Commonwealth Procurement Rules, including competitive tendering.

Approximately 60% of the contractors procured for the Capital Investment Program are Managing Contractors. The remaining 40% is contracted to Head Contractors, the majority of their work is also sub-contracted to SMEs. As Head Contracts are awarded on a lump sum basis, Defence has no involvement in the procurement of sub-contractors.



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### JSCFADT Review of the Defence Annual Report 2012-13 - 6 June 2014

#### Question on Notice No. 14 - Asset Management and Capital Investment Programs - Outstanding payments to sub-contractors

**Ms Gambaro MP** provided in writing:

- (1) In relation to Asset Management and Capital Investment Programs, what process does Defence have in place to assess/test the bona fides of statutory declarations and payments that are still outstanding to sub-contractors?
- (2) Please provide details as to how many contracts Defence is aware of where head/prime contractors have provided such statutory declarations and payments are still outstanding to sub-contractors.
- (3) What actions has Defence undertaken in relation to these cases?

#### **Response:**

(1) **Asset Management Programs.** All Comprehensive Maintenance and Base Service contracts have terms and conditions that require contractors to provide statutory declarations prior to any payment claim being approved. Contractor performance on sub-contractor management and service delivery requirements are monitored monthly using the performance management framework and reported at Collaborative Strategic Board quarterly meetings. Trust accounts relating to payments to sub-contractors are audited annually.

**Capital Investment Programs.** For major capital facilities investment, Defence relies on the application of the applicable State and Territory Security of Payment legislation. However, not all legislation requires the submission of a statutory declaration. Since 1992, Defence has required all contractors to submit, with each claim for payment, a statutory declaration that they have paid all monies due and payable to their sub-contractors. The statutory declarations are treated as bona fide as they are submitted in accordance with the relevant State and Territory legislative requirements. No assessment or testing is undertaken by Defence.

(2) and (3) Defence is not aware of any outstanding payments to sub-contractors of Comprehensive Maintenance or Base Service Contractors. In regard to the Major Capital Facilities Program, there have been three cases in recent years where the relevant Head/Prime Contractor has become either insolvent or has been placed in voluntary administration and payments are allegedly still outstanding to sub-contractors.

On investigation, the outstanding payments are normally for work undertaken post the payment of monies which were due and payable under the relevant sub-contract. Subject to the applicable State or Territory legislation, any monies due to the contractor are paid to the administrator or liquidator for distribution to the creditors.

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### **JSCFADT Review of the Defence Annual Report 2012-13 - 6 June 2014**

#### **Question on Notice No. 15 - Contestable environment**

**Dr Jensen MP** provided in writing:

In a 19 January 2013 email from the then Commodore, now Rear Admiral, Michael Noonan, to Rear Admiral Tim Barrett, he seems to suggest, inter alia, that “CN does not welcome public comment about Defence” and that “it has been determined that action will be initiated wrt to all future Defence contracts, and current contracts where possible, to formally preclude contractors from engaging in public comment about Defence issues”

(1) How does this suggestion reconcile with the statement made to Dr Dennis Jensen MP by CN on 06 June 2014 at the Joint Standing Committee on Foreign Affairs, Defence and Trade (Department of Defence Annual Report 2012-13) when he stated “I think what is important is that we have a contestable environment”?

(2) Noting Commodore Noonan’s email was a discussion about a particular Defence Contractor:

- a. Has the Department done anything to encourage that particular contractor’s participation in CN’s ideal “contestable environment”? If so, how or what?
- b. Has the Department done anything to discourage that particular contractor’s participation in CN’s ideal “contestable environment”? If so, how or what?

(3) Noting the importance of a “contestable environment”, has any action been initiated with respect to Defence contract templates to formally preclude contractors from engaging in public comments about Defence? If so, to what extent, and why?

#### **Response:**

(1) As the preamble to Dr Jensen’s question clearly states, the email referred to simply “seems to suggest” a view attributed to Vice Admiral Griggs. At no time has Vice Admiral Griggs made the alleged comment nor at any stage has he indicated that he holds such a view.

Throughout Vice Admiral Griggs’ time in command of the Navy, he supported an informed and often robust debate about the Navy and its future. In countering negative articles about the Navy, he consistently focused on factual inaccuracies and not on the opinions used. This is clearly evident from an examination of the ‘On the Record’ part of the Defence website.

Additionally, the development of the ‘Maritime school of thought’, a concept proposed by Vice Admiral Griggs, underscores the importance of diverse views regarding Defence. The Maritime school of thought was developed after the Navy

encouraged participation and debate from across Defence, government, academia and industry.

(2) (a & b) Vice Admiral Griggs stands by his comment made on 6 June 2014 regarding a contestable environment across Defence and across government. As this question refers to a particular contractor who is currently in dispute with Defence and has threatened legal action, it would not be appropriate for Defence to comment on matters relating to that person.

(3) No.